

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Reissue** Serial No. : 10/716,248 Confirmation No. 5207  
Applicant : David M. Tucker  
& Charles R. Yemington  
Filed : 11/17/2003  
TC/AU : 2856  
Examiner : Rogers, David A.  
Docket No. : 205-0034R1  
Customer No. : 90116

EFS Submission  
Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

**RESPONSE TO NON-COMPLIANT AMENDMENT AND SUPPLEMENTAL IDS**

Sir:

**Notice of Non-Compliant Amendment:** A Notice of Non-Compliant Amendment was mailed 08/06/2009 asserting that the amendments to the claims were not properly provided with status identifiers such as “original,” “currently amended,” etc. Apparently, it was not appreciated by the Formalities Officer that this application is a Reissue application. Because this is a reissue application, it is believed that the claims of the last filed amendment were properly identified in accordance with 37 CFR 1.173 (b)(2), which requires that “. . . For any claim changed by the amendment paper, a parenthetical expression ‘amended,’ ‘twice amended,’ etc., should follow the claim number.” A review of the Transaction History on PAIR reflects an entry “Withdrawal of Informal Amendment Notice” dated 09-22-2009 with a mailing date of 9-23-09 and that the amendment was forwarded to the Examiner on 09-22-2009. However, we have not received the Notice of Withdrawal from the PTO and the Image File Wrapper lacks any entries after 8-25-09. It is respectfully requested that the Image File Wrapper be updated, that the amendment filed Feb. 23, 2009 be entered and forwarded to the Examiner if such has not already occurred.

**Supplemental IDS:** The Examiner’s attention is directed to the supplemental IDS filed herewith. As has been previously disclosed, an Inter Partes Reexamination in related US Patent No. 6,840,088 (Control No. 95/000,128) is running concurrently with the present Reissue Application. Although it is believed that the Examiner is aware of and has ready access to the status and filings in the ’088 Reexamination, in an abundance of caution, the present IDS includes

Serial No. 10/716,248  
Reply to Notice of Non-Compliant Amendment of 08/06/2009

the recent Office actions and Responses and Replies thereto such that these materials will be made explicitly of record and shown to have been considered.

The Commissioner is authorized to charge any additional fees incurred in this application or credit any overpayment to Deposit Account No. 50-1922. Should the Examiner have any questions, please do not hesitate to call Applicant's attorney at 832-446-2421.

Respectfully submitted on October 9, 2009.

By



Marilyn M. Huston  
Reg. No. 37,851  
Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.  
20333 SH 249, Suite 600  
Houston, TX 77070  
(832) 446-2421  
[wcpatent@counselip.com](mailto:wcpatent@counselip.com)

CERTIFICATE OF EFS TRANSMISSION

I hereby certify that this document is being transmitted electronically to the USPTO EFS Portal, according to 37 CFR § 1.8(a)(1)(i)(C) on October 9, 2009.

Typed or printed name of person signing this certificate: Marilyn M. Huston



Registration Number: 37,851